

USDC SDNY DOCUMENT ELECTRONICALLY FILED DOC #: DATE FILED: 11/15/2021

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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UNITED STATES OF AMERICA	:	
- v. -	:	CONSENT PRELIMINARY ORDER OF FORFEITURE/ <u>MONEY JUDGMENT</u>
DOV MALNIK,	:	
Defendant.	:	S1 19 Cr. 714 (VM)
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WHEREAS, on or about February 26, 2020, DOV MALNIK (the “Defendant”), and another, were charged in a fifteen-count Superseding Indictment, S1 19 Cr. 714 (VM) (the “Indictment”), with conspiracy to commit securities fraud and fraud in connection with a tender offer, in violation of Title 18, United States Code, Section 371 (Count One); conspiracy to commit wire fraud and securities fraud, in violation of Title 18, United States Code, Section 1349 (Count Two); securities fraud, in violation of Title 15, United States Code, Sections 78j(b) & 78ff; Title 17, Code of Federal Regulations, Section 240.10b-5; and Title 18, United States Code, Section 2 (Counts Three through Nine); fraud in connection with tender offers, in violation of Title 15, United States Code, Sections 78n(e) & 78ff; Title 17, Code of Federal Regulations, Sections 240.14e-3(a) & 240.14e-3(d); and Title 18, United States Code, Section 2 (Counts Ten through Twelve); wire fraud, in violation of Title 18, United States Code, Sections 1343 and 2 (Count Thirteen); securities fraud, in violation of Title 18, United States Code, Sections 1348 and 2 (Count Fourteen); and money laundering conspiracy, in violation of Title 18, United States Code, Section 1956(h) (Count Fifteen);

WHEREAS, the Indictment included a forfeiture allegation as to Count One through Fourteen of the Indictment, seeking forfeiture to the United States, pursuant to Title 18, United States Code, Section 981(a)(1)(C) and Title 28, United States Code, Section 2461, of any

and all property, real and personal, that constitutes or is derived from proceeds traceable to the commission of the offenses alleged in Counts One through Fourteen of the Indictment, that the Defendant personally obtained;

WHEREAS, on or about June 25, 2021, the Defendant pled guilty to Count Nine of the Indictment, pursuant to a plea agreement with the Government, wherein the Defendant admitted the forfeiture allegation with respect to Count Nine of the Indictment and agreed to forfeit, to the United States, pursuant to Title 18, United States Code, Section 981(a)(1)(C) and Title 28 United States Code, Section 2461(c): a sum of money equal to \$1,594,779 in United States currency, representing proceeds traceable to the commission of the offense charged in Count Nine of the Indictment;

WHEREAS, the Defendant consents to the entry of a money judgment in the amount of \$1,594,779 in United States currency representing the amount of proceeds traceable to the offense charged in Count Nine of the Indictment that the Defendant personally obtained; and

WHEREAS, the Defendant admits that, as a result of acts and/or omissions of the Defendant, the proceeds traceable to the offense charged in Count Nine of the Indictment that the Defendant personally obtained cannot be located upon the exercise of due diligence.

IT IS HEREBY STIPULATED AND AGREED, by and between the United States of America, by its attorney Audrey Strauss, United States Attorney, Assistant United States Attorneys, Richard Cooper and Daniel Tracer, of counsel, and the Defendant, and his counsel, Michael Schachter, Esq., and Randall Jackson, Esq., that:

1. As a result of the offense charged in Count Nine of the Indictment, to which the Defendant pled guilty, a money judgment in the amount of \$1,594,779 in United States currency (the "Money Judgment"), representing the amount of proceeds traceable to the offense

charged in Count Nine of the Indictment that the Defendant personally obtained, shall be entered against the Defendant.¹

2. Pursuant to Rule 32.2(b)(4) of the Federal Rules of Criminal Procedure, this Consent Preliminary Order of Forfeiture/Money Judgment is final as to the Defendant, DOV MALNIK, and shall be deemed part of the sentence of the Defendant, and shall be included in the judgment of conviction therewith.

3. All payments on the outstanding money judgment shall be made by postal money order, bank or certified check, made payable, in this instance, to the United States Marshals Service, and delivered by mail to the United States Attorney's Office, Southern District of New York, Attn: Money Laundering and Transnational Criminal Enterprises Unit, One St. Andrew's Plaza, New York, New York 10007 and shall indicate the Defendant's name and case number.

4. The United States Marshals Service is authorized to deposit the payments on the Money Judgment in the Assets Forfeiture Fund, and the United States shall have clear title to such forfeited property.

5. Pursuant to Title 21, United States Code, Section 853(p), the United States is authorized to seek forfeiture of substitute assets of the Defendant up to the uncollected amount of the Money Judgment.

6. Pursuant to Rule 32.2(b)(3) of the Federal Rules of Criminal Procedure, the United States Attorney's Office is authorized to conduct any discovery needed to identify, locate or dispose of forfeitable property, including depositions, interrogatories, requests for production of documents and the issuance of subpoenas.


¹ The amount of the Money Judgment shall be reduced by the amounts of any payments that have been made by the Defendant to the United States Securities and Exchange Commission ("SEC") to resolve the parallel action by the SEC, *Securities and Exchange Commission v. Malnik*, 20 Civ. 1881 (LAP), as of the time of sentencing.

7. The Court shall retain jurisdiction to enforce this Consent Preliminary Order of Forfeiture/Money Judgment, and to amend it as necessary, pursuant to Rule 32.2 of the Federal Rules of Criminal Procedure.

8. The signature page of this Consent Preliminary Order of Forfeiture/Money Judgment may be executed in one or more counterparts, each of which will be deemed an original but all of which together will constitute one and the same instrument.


AGREED AND CONSENTED TO:

AUDREY STRAUSS
United States Attorney for the
Southern District of New York

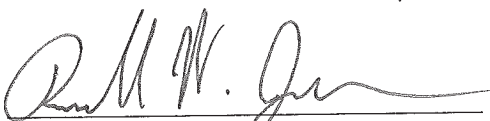
By: 
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(212) 637-1027 / 2329

6/25/21
DATE

DOV MALNIK


By: 
Dov Malnik

6/25/21
DATE

By: 
Michael Schachter, Esq.
Randall Jackson, Esq.
Attorney for Defendant
Willkie Farr & Gallagher LLP
787 Seventh Avenue
New York, NY 10019

6/25/2021
DATE

SO ORDERED:



Victor Marrero
U.S.D.J.

11/15/2021
DATE